

Settlement Agreement and Mutual Release

This Settlement Agreement and Mutual Release ("Agreement") is dated as of January 26, 2006, and is entered into by and among: (i) the State of Indiana ("State"), (ii) the City of East Chicago ("City" or "East Chicago"), (iii) the Attorney General of Indiana ("Attorney General") (collectively, the "Government Settling Parties"), on the one hand; and (iv) Roger & Sons Construction Co., Inc. ("Roger & Sons"), (v) Rogelio "Roger" Zepeda, and (vi) Simon Zepeda (collectively the "Roger and Sons Settling Parties"), on the other hand; all of which are collectively the "Settling Parties."

For valuable consideration, the sufficiency of which is hereby expressly acknowledged, the Settling Parties agree as follows:

1. In addition to any other terms defined elsewhere in this Agreement, the following terms shall have the following meanings in this Agreement:

a. "Government Releases" means each of the following persons (in the capacities indicated below) and entities, jointly and severally, and in the capacities indicated below: each of the Government Settling Parties and each of their respective past, present, and future divisions, officials, officers, directors, employees, agents, attorneys, representatives, instrumentalities, assignors, assignees, predecessors, successors, transferors, transferees.

b. "Government Settling Parties" means the State, the City, and the Attorney General.

c. "RICO Lawsuit" means the action styled *State of Indiana, ex rel. Steve Carter, Attorney General of Indiana, et al. v. Robert A. Pastrick, et al.*, pending in the

United States District Court for the Northern District of Indiana, South Bend Division,
Cause No. 3:04-cv-506-AS-CAN.

d. “Third Party Claim” means the Third Party Complaint filed by Roger and Sons Construction, Inc. in response to the RICO Lawsuit.

e. “Other East Chicago/Roger & Sons Litigation” means the two pending lawsuits Roger & Sons has filed against the City of East Chicago, namely *Roger & Sons Construction, Inc. v. East Chicago Sanitary District*, Lake Superior Court, Civil Division, Room Four, Cause Number 45D04-0010-CP-318, and namely *Roger & Sons Construction, Inc. v. East Chicago* Lake Superior Court, Civil Division, Room Five, Cause Number 45D05-0012-CP-789.

f. “Roger & Sons Releasees” means each of the following persons (in the capacities indicated below) and entities, jointly and severally, and in the capacities indicated below: Roger & Sons and each of its respective past, present, and future subsidiaries, affiliates, divisions, officials, officers, directors, employees (excepting Greg Gill, a former Roger and Sons employee, who is the founder and president of Company Defendant H & Y Maintenance Co., Inc.), shareholders, members, agents, attorneys, representatives, instrumentalities, assignors, assignees, predecessors, successors, transferors, transferees, and each person and entity that owns or controls, or is owned or controlled by, or is under common ownership or control with, any of the “Roger & Sons Settling Parties.”

g. “Roger & Sons Settling Parties” means Roger & Sons Construction Company, Inc. and Rogelio “Roger” Zepeda, and Simon Zepeda.

h. "Settling Parties" means the Government Settling Parties (State, City, and Attorney General) and the Roger & Sons Settling Parties (Roger & Sons, Rogelio "Roger" Zepeda, and Simon Zepeda).

2. To avoid the expense, time demands, and uncertainty of ongoing litigation, and without making any admission of any kind, the Settling Parties all desire to resolve, compromise, and settle all actual and potential litigation and claims among them concerning the RICO Lawsuit, including without limitation all claims that were asserted or could have been asserted in the RICO Lawsuit and the claims that were asserted or could have been asserted in connection with the Other East Chicago/Roger & Sons Litigation.

3. Roger & Sons or its designee shall deliver to the Office of the Attorney General the aggregate amount of Ten Thousand Dollars (\$10,000) ("Settlement Amount") as follows: Twenty-five hundred dollars (\$2,500) within seven (7) days after execution of this Agreement; Twenty-five hundred dollars (\$2,500) by June 30, 2006; Twenty-five hundred dollars (\$2,500) by September 30, 2006 and Twenty-five hundred dollars (\$2,500) by December 31, 2006.

Payment shall be mailed to:

State of Indiana
Office of the Attorney General
302 West Washington Street
IGCS 5th Floor
Indianapolis, Indiana 46204
Attn: Doug Webber

4. Claims asserted in the RICO Lawsuit and the Other East Chicago/Roger & Sons Litigation shall be dismissed as follows:

- a. The State and the City shall dismiss with prejudice all claims that each of them, jointly or severally, has asserted or could have asserted in the RICO

Lawsuit against Roger & Sons, with the parties to bear their respective costs and attorneys' fees.

- b. Roger & Sons shall dismiss with prejudice all claims it has asserted or could have asserted against the City in the Other East Chicago/Roger & Sons Litigation, with the parties to bear their respective costs and attorneys' fees.
- c. Roger & Sons shall dismiss with prejudice all claims it has asserted or could have asserted against the Third Party Defendants 1 through 50, et al. in the Third Party Complaint it filed in the RICO Lawsuit, with the parties to bear their respective costs and attorneys' fees.
- d. On behalf of the State and the City, the Attorney General shall execute and deliver to Roger & Sons' counsel a Stipulation of Dismissal and Order in a form satisfactory to counsel of the Settling Parties within five (5) business days of the execution of this Agreement for execution by Roger & Sons' counsel and filing in the RICO Lawsuit. Roger & Sons' counsel shall also submit in the RICO Lawsuit a Stipulation of Dismissal and Order in a form satisfactory to counsel of the Settling Parties within five (5) business days of the execution of this Agreement. Further, Roger & Sons' counsel shall also submit in the Other East Chicago/Roger & Sons Litigation Stipulations of Dismissal and Orders in a form satisfactory to counsel of the Settling Parties within five (5) business days of the execution of this Agreement.

5. Each of the Settling Parties shall act in good faith to effect the timely dismissal of its respective claims or counterclaims against any other Settling Party.

6. The Government Releasing Parties hereby completely release, forever discharge, and covenant not to sue each of the Roger & Sons Releasees as to any and all possible past, present, and future claims of any kind or nature whatsoever, known or unknown, that arise out of or are related to any facts or circumstances existing on or before the Effective Date concerning the RICO Lawsuit, including without limitation all claims that were or could have been asserted in the RICO Lawsuit. The release provided for in this Section 6 shall not bar any claim for breach of this Agreement.

7. Roger & Sons hereby completely releases, forever discharges, and covenants not to sue each of the Government Releasees as to any and all possible past, present, and future claims of any kind or nature whatsoever, known or unknown, that arise out of or are related to any facts or circumstances existing on or before the Effective Date concerning the RICO Lawsuit and the Other East Chicago/Roger & Sons Litigation, including without limitation all claims that were or could have been asserted in the RICO Lawsuit. The release provided for in this Section 7 shall not bar any claim for breach of this Agreement.

8. Each of the Settling Parties represents and warrants that it has not heretofore assigned or transferred (or purported to assign or transfer) to any person or entity any of the claims such Settling Party has released in Sections 6 or 7 of this Agreement, as the case may be.

9. Each of the Settling Parties acknowledges and agrees that each of its promises, obligations, actions, and undertakings pursuant to this Agreement is supported by good and sufficient consideration.

10. Roger & Sons neither admits nor denies liability. Roger & Sons agrees that except to comply with legal obligations or to respond to civil, criminal, administrative or other proceedings, it shall not make any public statement or file any document that either admits or denies liability. This agreement does not in any way restrict or limit Roger & Sons from testifying truthfully in the event testimony is given on matters related to the RICO Lawsuit.

11. As part of this Agreement, Roger & Sons, Rogelio "Roger" Zepeda and Simon Zepeda agree to cooperate with the Attorney General by making relevant documents available to the Attorney General for inspection and copying, and by making its officers and employees having knowledge of any of the relevant facts which form the basis of the RICO Lawsuit available as witnesses to provide interviews, sworn statements, and testimony. Rogelio "Roger" Zepeda and Simon Zepeda agree to cooperate fully, truthfully, and candidly with the Attorney General or his designated representatives as to any knowledge of or involvement in the RICO Lawsuit, including but not limited to providing sworn statements and affidavits and to testify truthfully and completely before the court in the RICO Lawsuit. The Attorney General shall be permitted to take an initial sworn statement of Rogelio "Roger" Zepeda and Simon Zepeda after the execution of this Agreement and prior to the filing of the stipulation of dismissal in the RICO Lawsuit.

12. In the event of any litigation arising out of or relating to this Agreement, the prevailing Settling Party(ies) shall recover from the non-prevailing Settling Party(ies) all costs and expenses paid or incurred by the prevailing Settling Party(ies) in such proceeding, including but not limited to reasonable attorneys' fees, expert witness fees, and any arbitration fees or expenses initially paid or shared by, or initially allocated to, such prevailing Settling Party(ies).

13. This Agreement shall be governed by and construed in accordance with the substantive laws of the State of Indiana, without regard to conflicts-of-law principles.

14. Each of the Settling Parties represents and warrants that no other person or entity has, or has had, any interest in the claims, demands, obligations, causes of action, or defenses referred to in this Agreement; and that the signatory for each party signing this Agreement has the right and authority to execute this Agreement.

15. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute a single agreement.

16. This Agreement shall be binding upon and inure to the benefit of the Settling Parties and each of their respective predecessors, successors, and assigns, as well as any entities with which any of them have merged or consolidated, or with which any of them may merge or consolidate in the future. None of the provisions of this Agreement are intended to be, nor shall they be deemed to be, for the benefit of any other person or entity, including but not limited to the other named defendants in the RICO Lawsuit.

17. If any provision of this Agreement is unlawful, invalid, or unenforceable for any reason that does not affect the remaining provisions of this Agreement, then all such remaining provisions shall be valid and enforceable as if the unlawful, invalid, or unenforceable provision or provisions had not been included in this Agreement.


18. No rights under this Agreement may be waived or varied except by an express waiver or variation made in writing and signed by the Settling Party against whom the waiver or variation is asserted.


19. For purposes of construing this Agreement, the Settling Parties agree that this Agreement is to be deemed to have been drafted equally by all Settling Parties and shall not be construed strictly for or against any Settling Party.

20. Each of the Settling Parties understands, agrees and intends that this Agreement shall completely and finally resolve, compromise, and settle all actual and potential litigation and claims between and among them and all parties to and concerning the RICO Lawsuit and the Other East Chicago/Roger & Sons Litigation. The Settling Parties further agree after execution of this Agreement each will, upon reasonable request of the other or its counsel, execute and deliver such other documents and instruments and take such other actions as may be required or reasonably necessary to carry out the provisions or intent of this Agreement.

21. With respect to the subject matters contained in this Agreement, this Agreement and the Exhibits attached to it: (a) supersede any and all prior discussions, understandings and agreements between and among the Settling Parties; (b) contain the sole and entire understanding of the Settling Parties; and (c) constitute the final and complete expression of the intent of the Settling Parties. The terms of this Agreement may not be amended, modified, or otherwise altered except by means of a subsequent written document signed by all of the Settling Parties or their designees.

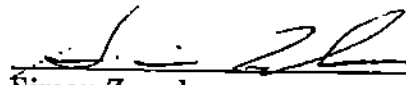
22. Each of the persons executing this Agreement on behalf of a Settling Party represents that he/she is expressly authorized to do so by such Settling Party.


Steve Carter, Attorney General of Indiana
On Behalf of Himself, the State of Indiana
and the City of East Chicago

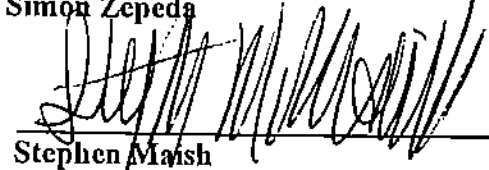

Rogelio "Roger" Zepeda, President
Roger & Sons Construction Co., Inc.
On Behalf of Roger & Sons Construction

Co., Inc.


Rogelio "Roger" Zepeda


Simon Zepeda

Reviewed By:


Stephen Marsh
Attorney for Roger & Sons